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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,460	02/11/2004	Donald J. Nole	ID-07 CIP	8733
7590	11/02/2005		EXAMINER	
OLSON & HIERL, LTD. 36th Floor 20 North Wacker Drive Chicago, IL 60606			OKEZIE, ESTHER O	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/765,460	NOLE ET AL.	
	Examiner Esther O. Okezie	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
  - 4a) Of the above claim(s) 24-31 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/29/05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-23 in the reply filed on August 29th 2005 is acknowledged. The traversal is on the ground(s) that the subject matter in group I and Group II is so closely related that a search and examination can be conducted without serious burden to the examiner. This is not found persuasive because Group I, claims 1-23 discloses to a container with handle structure which is classified in class 294 subclass 27.1 while Group II discloses a plunger assembly which is not classified in class 294, but in class 99/297 under which plunger type assemblies for beverages are classified.

The requirement is still deemed proper and is therefore made FINAL.

*re*  
Claims 24-31 are withdrawn from further consideration pursuant to 37 CFR  
1.142(b), as being drawn to a nonelected ~~invention~~, there being no allowable generic or linking  
claim. Applicant timely traversed the restriction (election) requirement in the reply filed  
on August 29th 2005.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 recites the limitation "said projecting stud member" in line 2 and "said depression" and "said linking member" in line 3. There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss et al.
2. Re claim 13, Weiss et al discloses the combination of an openable handle or carbiner attached to a cup or bottle wherein a projecting stud member (12") is in said lower end and engages a depression (16") in said linking member (16).
3. Re claim 14, The combination of a container and a handle structure wherein the handle structure comprises: an elongated arm (10) having first and second ends (12' and 14'), said first end being associated with the container, said second end being downwardly disposed in spaced relationship from said first end and in laterally disposed relationship relative to said container; and a linking member (16) having opposed terminal portions, said linking member including hinge means (18) for pivotably

engaging one of said terminal portions with one of either said second end or said container for enabling said other terminal portion to pivot to and away from the other of either said second end or said container, as the case may be, and further including spring means (20) yieldingly biasing said other terminal portion into engaged relationship with said other of either said second end or said container (figs 1,2,16).

4. Re claim 15, wherein said container is provided with a projection (14) with which either said one terminal portion is pivotably engaged or with which said other terminal portion yieldingly engages (fig 1).

5. Re claim 16, wherein said other terminal portion (12) has defined thereon a projecting stud member (12") and the other of either said second end or said projection, as the case may be, has a defined therein a depression (16") which matingly receives said stud member when said other terminal portion is so pivotably engaged therewith.

6. Re claim 17, wherein said stud member (12") is generally T-configured (fig. 4) and said depression is adapted to matingly receive said stud member.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howitt in view of Weiss.

Art Unit: 3652

8. Re claim 1, Howitt discloses an apparatus for preparing beverages, such as coffee, including a coffee press comprising in combination: (a) a vessel (10) having side walls (18), a bottom wall (20) and an open top (22); (b) a top cap (28) removably mounted about said open top; (c) said vessel having extending perimetrically thereabout an upper band (26) and a longitudinally lower band(14); (d) a handle (16) that extends along and adjacent to exterior portions of said side walls and that has an upper end portion and a lower end portion, said upper end portion being connected to said upper band and said lower end portion being open.

Howitt does not disclose a openable, pivoting handle including a linking member having opposed terminal portions, said linking member including hinge means for pivotably engaging one said terminal portions with one of either said lower band or said lower end portion for enabling said other terminal portion to pivot to and away from the other of either said lower end portion or said lower band, as the case may be, and (f) spring means yieldingly biasing said other terminal portion into engaged relationship with said other of either said lower end portion or said lower band.

Weiss discloses linking member including hinge means (18) for pivotably engaging one of said terminal portions with one of either said second end or said container for enabling said other terminal portion to pivot to and away from the other of either said second end or said container, as the case may be, and further including spring means (20) yieldingly biasing said other terminal portion into engaged relationship with said other of either said second end or said container (figs 1,2,16). It would have been obvious to one of ordinary skill in the art to modify the beverage

Art Unit: 3652

container of Howitt to include an openable handle with hinged linking member including spring bias as taught by Weiss and connected to the upper and lower bands (26,14) of the container in order to provide a coffee press with an openable handle structure that is easy and convenient to transport and removably permit quick attachment to and release from another item such as a hook for storage, a backpack, belt, etc. for hands-free carrying or storage (Weiss: col. 1, lines 5-11; col. 2, lines 6-22).

9. Re claim 2, Howitt discloses (a) a vessel (10) having side walls (18), a bottom wall (20) and an open top (22); (b) a top cap (28) removably mounted about said open top; (c) a cage structure extending over exterior portions of said side walls, said cage structure including an upper circumferentially extending band (26), a lower circumferentially extending band (14), and a plurality of longitudinally extending, circumferentially spaced straps (14) extending between said upper band and said lower band (see fig 2); (d) a handle (16) that extends along and adjacent to exterior portions of said side walls and that has an upper end portion and a lower end portion, said upper end portion being connected to said upper band and said lower end portion being open.

Howitt does not disclose a openable, pivoting handle including a linking member having opposed terminal portions, said linking member including hinge means for pivotably engaging one said terminal portions with one of either said lower band or said lower end portion for enabling said other terminal portion to pivot to and away from the other of either said lower end portion or said lower band, as the case may be, and (f) spring means yieldingly biasing said other terminal portion into engaged relationship with said other of either said lower end portion or said lower band.

Weiss discloses linking member including hinge means (18) for pivotably engaging one of said terminal portions with one of either said second end or said container for enabling said other terminal portion to pivot to and away from the other of either said second end or said container, as the case may be, and further including spring means (20) yieldingly biasing said other terminal portion into engaged relationship with said other of either said second end or said container (figs 1,2,16). It would have been obvious to one of ordinary skill in the art to modify the beverage container of Howitt to include an openable handle with hinged linking member including spring bias as taught by Weiss and connected to the upper and lower bands (26,14) of the container in order to provide a coffee press with an openable handle structure that is easy and convenient to transport and removably permit quick attachment to and release from another item such as a hook for storage, a backpack, belt, etc. for hands-free carrying or storage (Weiss: col. 1, lines 5-11; col. 2, lines 6-22).

10. Claims 3,5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Howitt and Weiss as applied to claims 1 and 2 above, and further in view of Shen.

11. Re claim 3, the combination of Howitt and Weiss does not disclose elements (a) through (c), while Howitt discloses the cage structure and handle of part (d) and Weiss discloses the linking member of part (f) as explained above. Shen discloses a container for making tea, coffee, and the same including (a) an open top (21) with first thread means (211) defined in said side walls adjacent to said open top; (b) a bottom cap (4

Art Unit: 3652

and 51) mounted over said bottom wall and bottom wall adjacent portions of said side walls including a means of mounting said bottom cap to said vessel (see respective threads in bottom cap 4 and bottom wall 12); (c) a top cap (3) demountably mounted over said open top and top adjacent portions of said side walls, said top cap including interior, circumferentially extending second thread means (312) defined adjacent terminal portions of said top cap, said second thread means being threadably engaged with said first thread means whereby said top cap is removably mounted over said open top (see figs 2,3). It would have been obvious to one of ordinary skill in the art to provide threaded sections for connecting the top and bottom portions of the container as taught by Shen because threadably connected container portions are well known in the art and threaded sections would enable easy and quick disassembly and assembly of the container.

12. Re claim 5, Howitt discloses brass top and bottom caps, while Shen and Weiss disclose plastic components. It would have been obvious to one of ordinary skill in the art to fabricate the caps from stainless steel because stainless steel is well known for durability and resistance to rust which would be necessary for a beverage container.

13. Re claim 6, the combination of Howitt and Weiss does not disclose a plastic liner in the top cap in which said second thread means is defined. Shen discloses a plastic liner (33) in which a thread means (312) is defined. It would have been obvious to one of ordinary skill in the art to provide a plastic liner within the cap to help prevent leakage of fluids from the container.

Art Unit: 3652

14. Re claim 7, Weiss et al discloses a molded plastic handle (col. 8, lines 60-63) and internal bolts (26,46,53) within the handle, bolts generally being made from metal. Weiss et al also discloses the handle be made in whole or in part by metal to be semi-rigid.

15. Re claim 8, Weiss et al discloses a hinge (18) on the linking member of the handle which abuts against the container wall. Weiss et al does not disclose a lower band on which the hinge of linking member is disposed. Howitt discloses said lower band includes a localized thickened, outwardly projecting region (see lower portion of handle 16 at bottom screw where the handle and lower band 14 meet). It would have been obvious to include bands around the container as taught by Howitt in order to further reinforce the container against cracking under high temperatures.

16. Re claim 9, Weiss et al discloses said other terminal portion of said linking member includes a projecting stud member (12") and either said outwardly projecting region or said lower end portion includes a depression (16") that matingly receives said stud member when said other terminal portion of said linking member is in said engaged relationship therewith (figs 2,4,16).

17. Re claim 10, Weiss et al discloses said projecting stud member has a T-configuration and said depression has a mating configuration (fig 4).

18. Re claim 11, Weiss et al discloses said projecting stud member engages said depression in said lower end (fig 2).

19. Re claim 12, Weiss et al discloses said projecting stud member of said linking member engages said depression in said lower end.

20. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Howitt, Weiss, and Shen as applied to claim 3 above, and further in view of Su. The combination of Howitt, Weiss, and Shen does not disclose a plurality of screws extended through said bottom cap into threaded engagement with preformed, downwardly and outwardly projecting stumps preformed in said bottom wall. Shen discloses the bottom cap threadably attached to the bottom wall. Su discloses a coffee maker structure wherein the bottom cap (110) includes screws and stumps (110, 1111, 1210, 1101) for attaching the screws onto the bottom wall of container (12; see fig 4). It would have been obvious to attach the bottom cap of the container to the bottom wall of the container with screws including projecting stumps for receiving the screws, as this method of attachment is well known in the art for attaching to pieces.

21. Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss in view of Howitt. Weiss et al discloses a linking member (16) having opposed terminal portions, said linking member including hinge means (18) for pivotably engaging one of said terminal portions with one of either said second end or said container for enabling said other terminal portion to pivot to and away from the other of either said second end or said container, as the case may be, and further including spring means (20) yieldingly biasing said other terminal portion into engaged relationship with said other of either said second end or said container (figs 1,2,16); said container is provided with a projection (14) with which either said one terminal portion is

Art Unit: 3652

pivotsably engaged or with which said other terminal portion yieldingly engages (fig 1); said other terminal portion (12) has defined thereon a projecting stud member (12") and the other of either said second end or said projection, as the case may be, has a defined therein a depression (16") which matingly receives said stud member when said other terminal portion is so pivotably engaged therewith; said stud member (12") is generally T-configured (fig. 4) and said depression is adapted to matingly receive said stud member.

Weiss et al does not disclose lower and upper bands along the container. Howitt discloses a container having extending perimetrically thereabout an upper band (26) and a longitudinally lower band (14). It would have been obvious to include bands around the container as taught by Howitt in order to further reinforce the container against cracking under high temperatures.

### ***Conclusion***

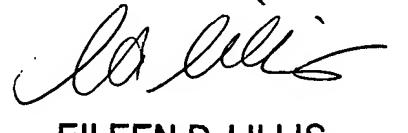
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOD 10/26/05



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